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Attorneys for Plaintiff and the Putative Class

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

JOSHUA SMITH, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

PEGATRON USA, INC., a California
corporation, ASROCK AMERICA, INC.,
a California corporation, and FATALITY,
INC., d/b/a Fatal1ty, Inc., a Missouri
corporation,

Defendants.

Case No. 3:14-cv-01822-CRB

**PLAINTIFF'S STATEMENT OF
NON-OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS AND
NOTICE OF INTENT TO FILE
FIRST AMENDED COMPLAINT**

Judge: Hon. Charles R. Breyer
Action Filed: April 21, 2014

1 Plaintiff Joshua Smith (“Plaintiff”) filed this putative class action against Defendants
2 Pegatron USA, Inc., ASRock America, Inc., and Fatality, Inc. (“Defendants”) on April 21, 2014.
3 (Dkt. 1.) On June 12, 2014, Defendants moved to (i) dismiss Plaintiff’s Complaint pursuant to Fed.
4 R. Civ. P. 9(b) and Fed. R. Civ. P. 12(b)(6) and (ii) stay discovery pursuant to Fed. R. Civ. P.
5 26(c). (Dkt. 29.) No other responsive pleadings or motions have been previously filed or served by
6 Defendants.

7 Pursuant to Fed. R. Civ. P. 15(a)(1)(B), Plaintiff intends to file a First Amended Class
8 Action Complaint on or before July 3, 2014—i.e., within 21 days of service of Defendants’ motion
9 to dismiss. However, to the extent that the Civil Local Rules of this District require Plaintiff to file
10 a response to the pending motion on or before June 26, 2014 (i.e., per Civil L.R. 7-3), Plaintiff
11 submits this statement pursuant to Civil L.R. 7-3(b), without prejudice to any opposition he may
12 raise to the arguments asserted in Defendants’ motion. In submitting this statement, Plaintiff
13 respectfully notifies the Court that he intends to file a First Amended Class Action Complaint as a
14 matter of course and for his response to Defendants’ motion.

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Respectfully submitted,

Dated: June 26, 2014

JOSHUA SMITH, individually and on behalf of all
others similarly situated,

By: /s/ Benjamin S. Thomassen
One of Plaintiff's Attorneys

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/s/ Benjamin S. Thomassen